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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------------|------------------|
| 10/732,851 | 12/09/2003 | Toshihiko Kouda | 03710/LH | 8868 |
| 1933 | 7590 | 08/23/2005 | | |
| FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 5TH AVE FL 16 NEW YORK, NY 10001-7708 | | | EXAMINER BEAULIEU, YONEL | |
| | | | ART UNIT 3661 | PAPER NUMBER |

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|----------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/732,851 | KOUDA ET AL. |
| | Examiner Yonel Beaulieu | Art Unit 3661 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 09 December 2003.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-18 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-18 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 09 December 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 12/09/03&9/9/27/04.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

Claim Objections

Claims 5, 7 – 12, and 14 – 18 are objected to because of the following informalities: in claim 5, line 3, it is suggested to change “severs” to - -servers- -; in claims 7 – 12 and 14 – 18, it is suggested to replace “it should” with - -to- -. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 9 and 13, 14, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hashimoto et al. (US 6,397,282 B1).

Regarding claims 1, 3, 5, and 7, Hashimoto et al. teaches a rewrite control apparatus for an onboard program (col. 4, lines 12 – 18), comprising: an onboard controller provided in a vehicle (figs. 1, 3, and 6), wherein a storage medium (12/13) of an information collection controller of said onboard controller is provided with a data area for storing vehicle condition data (col. 4, lines 19 – 31 at least); wherein when a command to rewrite the onboard program into a new onboard program is given, said rewrite control apparatus writes and saves the vehicle condition data stored in said data area into a storage area which is in said storage medium and is different from said data

area, or into a storage medium different from said storage medium, and executes rewrite processing of rewriting the onboard program into the new onboard program (col. 4, lines 32 – 36; col. 5, lines 4 – 25 at least); and wherein when said rewrite processing is finished, said rewrite control apparatus performs processing of writing the saved vehicle condition data back into said data area (see figs. 2 and 5 at least). Hashimoto further teaches servers (formed by items 1 – 4) and communication means (8) for communicably connecting (via item 20) the servers and the on-board controller, transmission and reception of vehicle condition (col. 4, lines 27 – 31 and 50 – 56) all under normal operation mode (col. 7, lines 23 – 29 and col. 9, lines 55 – 61 at least).

Regarding claims 2 and 4, Hashimoto further teaches a buffer area for the onboard program (note step 103 in fig. 2; item 23 at least).

Regarding claim 6, Hashimoto's switching command is based on a signal from timer means (col. 7, lines 9 – 30 and col. 9, lines 3 – 61).

Regarding claims 8, 13, and 14, Hashimoto's server determines whether to execute the rewrite processing of said onboard program or not, said server compares (redundancy check) the memory content of said onboard controller and a memory content of a master file (col. 5, lines 47 – 54; col. 6, lines 33 – 36; and col. 5, lines 52 – 62 at least) and a memory that contains vehicle condition data (col. 3es 19 – 23 and 37 – 50 at

least).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 – 12 and 15 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto ('282) as applied to claims 1 and 7 above and further in view of Suman et al. (US 5,479,157 A).

As discussed above, Hashimoto teaches all of the limitations except for data indicating that the vehicle is locked at a specified position.

However, Suman et al. teaches, in the same field of endeavor of rewrite (reprogram) control apparatus, data indicating that a vehicle is locked at a specified position (location) – (col. 3, lines 3 – 15 and col. 10, lines 13 – 26 and 52 – 67 at least).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Hashimoto's teaching by including data indicating that the vehicle is locked at a specified position as evidenced by Suman et al. in order to enhance data exchange security.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yonel Beaulieu whose telephone number is (571) 272-6955. The examiner can normally be reached on M-W 9-3; F 9-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas BLACK can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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